REMARKS

Drawing objection

The drawings were objected to as lacking element 9, which is mentioned in the description. In fact, Fig. 1 includes reference character 9, a trolley, which is highlighted in the attachment (Fig. 1) for convenience in responding to this objection. Because the drawing shows each element mentioned in the description, no replacement sheet is required and the objection should be withdrawn.

Claim rejections - 35 USC §103

Claims 1-13 and 15-16 were rejected under 35 U.S.C. §103(a) as being obvious in view of the combination of Waddell, Sandoval and further in view of Bidwell. When a rejection depends on a combination of prior art references, there must be some teaching, suggestion or motivation to combine the references. *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998).

EP 1,314,441 (Waddell) discloses a thorax drainage system with a water seal chamber 12 and a collection container 14 defining two separate containers. The collection container 14 is a standard disposable compound that can be obtained from any number of suppliers and is sufficiently inexpensive so as to be economically disposable and mass produced for such use (column 6, lines 8-12). The water seal chamber 12 is comprised of a transparent plastic material which is relatively inexpensive to manufacture and thus can be made to be economically disposable after each use. The water seal chamber 12 is basically a closed chamber and is comprised of a cylindrical side 20, a bottom 22 and a cover 24. Affixed to the cover 24 are an inlet 26 and an outlet 28, both of which communicate with the interior of the closed chamber (column 6, lines 23-31). Since the water seal chamber 12 can be shipped pre-filled with the liquid, there are caps 38 that are used to seal off the open ends of both the inlet 26 and the outlet 28. There is no teaching or suggestion in the description or in the drawings of Waddell as to a water seal chamber 12 or a collection container 14 each having an associated removable cover. *Since both containers are designed as disposable components, the disclosure of Waddell teaches away from providing containers with removable covers or reusable elements.* This fact alone supports our position that there is no motivation to combine Waddell with the remaining

references, and thus, taken as a whole, the prior art does not teach or suggest the presently claimed invention.

US 4,266,765 (Sandoval) was cited to show that a mobile trolley (11) is known for receiving the system components for a thorax drainage system. Sandoval is silent about specific components of a thorax drainage system such as a system featuring two separate containers. Thus, Sandoval does not supply all of the deficiencies of Waddell, especially with respect to any motivation to combine or modify the cited references.

US 3,363,626 (Bidwell) was cited, according to the action, to demonstrate that prior art containers were disassembled and sterilized after each use, i.e. reusable (column 2, lines 67-68). However, Bidwell is silent about the parts of the prior art devices to be disassembled and sterilized. Contrary to the action, the Bidwell patent only mentions that the prior art "apparatus" must be disassembled and sterilized. Bidwell does assert that this is a disadvantage of the prior art and the device of Bidwell has the object of avoiding this disadvantage. Therefore, the disclosure of Bidwell actually discourages the practice of disassembly and sterilization of an underwater drainage apparatus. Taken as a whole, then, one would not look to Bidwell to provide the motivation of supplying all of the limitations and particularities of the presently claimed device. Thus, Bidwell does not supply the deficiencies of Waddell and Sandoval in either structural elements, motivation or suggestion.

US 4,740,202 (Stacey) shows a suction collection device and was used in combination with the combination of Waddell, Sandoval and Bidwell and cited against claim 14 because the secretion-collecting chamber is a container and the connecting line and drainage line open into the chamber, but does not expressly disclose a cover. The Examiner refers to figure 1, which in his opinion discloses the secretion collecting chamber (10) can be closed tight with associated cover (24) and a connecting line (20) and a drainage line (14) open into the cover. Since Stacy states at column 1, lines 35-40 that the advantage of forming the collection chamber with such a cover is that the drainage system is still operable even if the collection chamber tips over, the Examiner concludes from this that it would therefore have been obvious to form the container of Waddell featuring a cover as disclosed by Stacey. However, the secretion-collecting chamber 10 is actually a *container bag* affixed to a suction port 74 on a plastic sealing top cover 24 of a

chamber or container 12, whereby bag 10 fits inside circular container 12. Bag 10 is formed of a material which is impervious to fluids such as blood yet permits air to pass through its pores. A continuous airway is formed by a vacuum sensor tube 20 and a second small cap inlet 25. The inner periphery of cover 24 is adapted to form a vacuum tight fit with the outer cylindrical wall of container 12 (column 3, lines 7-32). From the above it is clear that the arrangement of bag 10 inside container 12 and cover 24 with suction port 74 leading to the inside of bag 10 and vacuum tube 20 leading into container 12 outside of bag 10 is different and not comparable to the containers with associated covers according to the present invention. It is not the cover but the special material of the bag that is responsible that the drainage system is still operable even if the collecting chamber tips over. Thus, it is clear that Stacey does not supply the deficiencies of the previous documents and lacks any suggestion to provide the missing elements of the present claims.

It is a central tenet to obviousness that it is improper to "pick and choose" elements from the prior art in assembling a case showing the limitations of a claimed invention. The motivation to combine references must be present in the references and as shown above, in several instances, the references teach away from a combination or provide a disincentive to combine, or simply fail to demonstrate a motivation to do so. The fact that all of the references address drainage in some way is insufficient motivation to combine them.

Because the cited prior art does not, in combination, teach or suggest all of the required elements of the claims the claims are not rendered obvious by the combination thereof, even if it was justified to do so. However, the cited prior art does not provide the motivation to combine and thus, the claims are not rendered obvious thereby.

Applicants request reconsideration. A petition for one-month extension of time is enclosed herewith.

Respectfully submitted,

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